

United States District Court

Eastern District of Missouri

UNITED STATES OF AMERICA

v.

STUART B. MILLNER

JUDGMENT IN A CRIMINAL CASE

CASE NUMBER: 4:16CR153 CDP

USM Number: 45750-044

James Martin

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) two, three, four and nine of the indictment on February 7, 2017.

☐ pleaded nolo contendere to count(s) _____
which was accepted by the court.

☐ was found guilty on count(s) _____
after a plea of not guilty

The defendant is adjudicated guilty of these offenses:

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 U.S.C. § 1344	Bank Fraud	On or about March 3, 2014	Two
18 U.S.C. § 1344	Bank Fraud	On or about May 6, 2014	Three
18 U.S.C. § 1341	Mail Fraud Affecting a Financial Institution	On or about September 11, 2014	Four

The defendant is sentenced as provided in pages 2 through 10 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

☐ The defendant has been found not guilty on count(s) _____

☒ Count(s) one, five, six, seven, eight and ten are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

June 20, 2017

Date of Imposition of Judgment

Catherine D. Perry

Signature of Judge

Honorable Catherine D. Perry

United States District Judge

Name & Title of Judge

June 20, 2017

Date signed

DEFENDANT: STUART B. MILLNER

CASE NUMBER: 4:16CR153 CDP

District: Eastern District of Missouri

ADDITIONAL COUNTS OF CONVICTION

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
18 U.S.C. § 1341	Mail Fraud	On or about December 8, 2014	Nine

DEFENDANT: STUART B. MILLNERCASE NUMBER: 4:16CR153 CDPDistrict: Eastern District of Missouri**IMPRISONMENT**

The defendant is hereby committed to the custody of the Federal Bureau of Prisons to be imprisoned for a total term of one day.

This term consists of a term of one day on each of counts two, three, four and nine, all such terms to be served concurrently.

☐ The court makes the following recommendations to the Bureau of Prisons:

☐ The defendant is remanded to the custody of the United States Marshal.

☒ The defendant shall surrender to the United States Marshal for this district:

☐ at _____ a.m./pm on _____

☒ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before 2 p.m. on _____

☐ as notified by the United States Marshal

☐ as notified by the Probation or Pretrial Services Office

MARSHALS RETURN MADE ON SEPARATE PAGE

DEFENDANT: STUART B. MILLNERCASE NUMBER: 4:16CR153 CDPDistrict: Eastern District of Missouri

SUPERVISED RELEASE

Upon release from imprisonment, the defendant shall be on supervised release for a term of five years.

This term consists of a term of five years on each of counts two, three and four, and a term of three years on count nine, all such terms to be served concurrently, for an aggregate term of five years.

MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
 - ☒ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
5. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (42 U.S.C. § 16901, et seq.) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in the location where you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
6. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

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STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: www.uscourts.gov.

Defendant's Signature _____

Date _____

DEFENDANT: STUART B. MILLNERCASE NUMBER: 4:16CR153 CDPDistrict: Eastern District of Missouri**ADDITIONAL SUPERVISED RELEASE TERMS**

While on supervision, the defendant shall comply with the standard conditions that have been adopted by this Court and shall comply with the following additional conditions. If it is determined there are costs associated with any services provided, the defendant shall pay those costs based on a co-payment fee established by the probation office.

1. You must participate in the Location Monitoring Program for a period of six months. During this time, you will remain at your place of residence at all times and shall not leave except when such leave is approved in advance by the probation office. As determined by the probation officer, you may be required to maintain a telephone at your place of residence without any service that would interfere with the operation of the location monitoring equipment for the above period. At the discretion of the probation officer, unless otherwise ordered by the Court, you may be required to wear a location monitoring device that may include Global Positioning System and/or Random Tracking. You must follow location monitoring procedures specified by the probation office.
2. You must participate in a cognitive-behavioral treatment program and follow the rules and regulations of that program. The probation officer will supervise your participation in the program (provider, location, modality, duration, intensity, etc.). Such programs may include group sessions led by a counselor or participation in a program administered by the probation office.
3. You must not be self-employed or be employed as a "consultant" without the written permission of the probation office.
4. You must not create, operate, manage or participate in the creation, operation or management of any business entity, including a family business without the written permission of the probation office.
5. You must provide the probation officer with access to any requested financial information and authorize the release of any financial information. The probation office may share financial information with the U.S. Attorney's Office.
6. You must not incur new credit charges, or open additional lines of credit without the written approval of the probation officer.
7. You must apply all monies received from any anticipated and/or unexpected financial gains, including any income tax refunds, inheritances, or judgments, to the outstanding Court-ordered financial obligation. You must immediately notify the probation office of the receipt of any indicated monies.
8. You must pay the financial penalty/restitution in accordance with the Schedule of Payments sheet of the judgment. You must also notify the court of any changes in economic circumstances that might affect the ability to pay this financial penalty.
9. You must participate in a mental health treatment program and follow the rules and regulations of that program. The probation officer, in consultation with the treatment provider, will supervise your participation in the program (provider, location, modality, duration, intensity, etc.).
10. You must submit your person, property, house, residence, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), other electronic communications or data storage devices or media, or office, to a search conducted by a United States probation officer. You must warn any other occupants that the premises may be subject to searches pursuant to this condition. The probation officer may conduct a search under this condition only when reasonable suspicion exists that you have violated a condition of supervision and that the areas to be searched contain evidence of this violation. Any search must be conducted at a reasonable time and in a reasonable manner.

DEFENDANT: STUART B. MILLNERCASE NUMBER: 4:16CR153 CDPDistrict: Eastern District of Missouri**CRIMINAL MONETARY PENALTIES**

The defendant must pay the total criminal monetary penalties under the schedule of payments on sheet 6

AssessmentJVTA Assessment*FineRestitutionTotals: \$400.00 \$3,272,850.40☐ The determination of restitution is deferred until . *An Amended Judgment in a Criminal Case (AO 245C)*☒ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportional payment unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Aclara Technologies, LLC Attn: Michael Noska, 30400 Solon Road, Solon, OH 44139		\$26,506.80	
Bally's Gambling, Inc. Attn: John Cuddihy, 6650 El Camino road, Las Vegas, NV 89118		\$287,325.00	
Benteler Automotive Attn: James Pring, 2650 N. Opdyke Road, Bldg. B, Auburn Hills, MI 48236		\$1,110,908.79	
Berry Plastics Corporation Attn: Chris White, 101 Oakley Street, Evansville, IN 47710		\$663,397.24	
Total from Page 2		\$1,184,712.57	
	<u>Totals:</u>	<u>\$3,272,850.40</u>	

☐ Restitution amount ordered pursuant to plea agreement ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).☒ The court determined that the defendant does not have the ability to pay interest and it is ordered that:☒ The interest requirement is waived for the. ☐ fine ☒ restitution.☐ The interest requirement for the ☐ fine ☐ restitution is modified as follows:

* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

** Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

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ADDITIONAL RESTITUTION PAYEES

<u>Name of Payee</u>	<u>Total Loss</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Briggs & Stratton Products Group Attn: Patricia Hanz, 12301 W. Wirth Street, Wauwatosa, WI 53222		\$465,835.00	
Dynegy, Inc. Attn: Jason Kinzel, 601 Travis Street, Suite 1400, Houston, TX 77002		\$332,902.61	
Hartmann USA, Inc. Attn: Karen Harris, 481 Lakeshore Parkway, Rock Hill, SC 29730		\$153,105.75	
Intertape Polymer Corporation Attn: Andrew Van Ore, 100 Paramount Drive, Suite 300, Sarasota, FL 34232		\$1,640.69	
ITW Fasteners/ITW Shakeproof Attn: Jerry Dewitz, 1201 St. Charles Street, Elgin, IL 60120		\$24,934.50	
JMC Wood Attn: Jeffrey Jappa, 13519 Northwest Industrial Drive, Bridgeton, MO 63004		\$4,686.30	
Modine Manufacturing Company Attn: Wayne Henslin, 1500 DeKoven Ave., Racine, WI 53403		\$72,000.00	
Rochester Public Utilities Attn: Bryan Blom, 4000 E. River Road NE, Rochester, MN 55906		\$55,465.72	
Superior Engineering Attn: Paul Jasso, 1993 Windmoor Place, St. Louis, MO 63131		\$74,142.00	
Total Page 2		\$1,184,712.57	

* Findings for the total amount of losses are required under Chapters 1 09A, 110, 110A, and 11 3A of Title 18 for offenses committed on or after September 13, 1994 but before April 23, 1996.

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ADDITIONAL TERMS FOR CRIMINAL MONETARY PENALTIES

RESTITUTION:

IT IS FURTHER ORDERED that pursuant to 18 U.S.C. § 3663A, for each of Counts 2, 3, 4 and 9, the defendant shall make restitution in the total amount of \$3,272,850.40 to the victims listed on pages 7 and 8 of this Judgment.

Payments of restitution shall be made to the Clerk of the Court for transfer to the victims. The interest requirement for the restitution is waived.

All criminal monetary penalties are due in full immediately. The defendant shall pay all criminal monetary penalties through the Clerk of Court. If the defendant cannot pay in full immediately, then the defendant shall make payments in monthly installments of at least \$500, or no less than 10% of the defendant's gross earnings, whichever is greater, with payments to commence no later than 30 days from this date. Until all criminal monetary penalties are paid in full, the defendant shall notify the Court and this district's United States Attorney's Office, Financial Litigation Unit, of any material changes in the defendant's economic circumstances that might affect the defendant's ability to pay criminal monetary penalties. The defendant shall notify this district's United States Attorney's Office, Financial Litigation Unit, of any change of mailing or residence address that occurs while any portion of the criminal monetary penalties remains unpaid.

DEFENDANT: STUART B. MILLNERCASE NUMBER: 4:16CR153 CDPDistrict: Eastern District of Missouri**SCHEDULE OF PAYMENTS**

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

- A ☒ Lump sum payment of \$3,273,250.40 due immediately, balance due
☐ not later than _____, or
☒ in accordance with ☐ C, ☐ D, or ☐ E below; or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ E below; or ☐ F below; or
- C ☐ Payment in equal _____ (e.g., equal, weekly, monthly, quarterly) installments of _____ over a period of _____ e.g., months or years), to commence _____ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal _____ (e.g., equal, weekly, monthly, quarterly) installments of _____ over a period of _____ e.g., months or years), to commence _____ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within _____ (e.g., 30 or 60 days) after Release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:

IT IS FURTHER ORDERED that the defendant shall pay to the United States a special assessment of \$100 on each of Counts 2, 3, 4, and 9, for a total of \$400, which shall be due immediately. See pages 7, 8 and 9 of this Judgment for further information on criminal monetary penalties.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalty payments, except those payments made through the Bureau of Prisons' Inmate Financial Responsibility Program are made to the clerk of the court.

The defendant will receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several
 Defendant and Co-defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

Under 21 U.S.C. §853, the defendant has forfeited all of his right, title, and interest in the property previously identified in the Preliminary Order of Forfeiture issued on May 1, 2017.

Payments shall be applied in the following order: (1) assessment; (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.



DEFENDANT: STUART B. MILLNER

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UNITED STATES MARSHAL
RETURN OF JUDGMENT IN A CRIMINAL CASE

I have executed this judgment as follows:

The Defendant was delivered on _____ to _____
at _____, with a certified copy of this judgment.

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

- ☐ The Defendant was released on _____ to _____ Probation
- ☐ The Defendant was released on _____ to _____ Supervised Release
- ☐ and a Fine of _____ ☐ and Restitution in the amount of _____

UNITED STATES MARSHAL

By _____
Deputy U.S. Marshal

I certify and Return that on _____, I took custody of _____
at _____ and delivered same to _____
on _____ F.F.T. _____

U.S. MARSHAL E/MO

By DUSM _____